22883

217.1026.01 10/801,091

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Art Unit: 2615
Michael A MALCOLM	Examiner: n/y/a
Serial No.: 10/801,091	Tel: n/y/a
Filed: Mar. 15, 2004	Office Action Mailed:
For: Remote Playback of Ingested Media Content	n/a

CERTIFICATE OF MAILING (37 CFR § 1.8)

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on 8/31/2007 (Date) By:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

Dear Examiner:

Prior to consideration this Petition to Make Special and approve accelerated examination of the application in this case.

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INTRODUCTION:

Applicant notes that this Petition is accompanied by a Preliminary Amendment. Entry of that Preliminary Amendment is respectfully requested before consideration of this Petition. The arguments in this Petition discuss the claims as amended by that Preliminary Amendment.

As stated at MPEP 708.02(VII),

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.

A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

FEE:

This Petition is accompanied by the fee set forth in 37 CFR 1.17(h)

SINGLE INVENTION:

Applicant submits that all claims as amended are directed toward a single invention, albeit claimed differently in each of the independent claims. However, if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of special status. The election is hereby made by Applicant if so required.

PRE-EXAMINATION SEARCH:

Applicant's representative has made a pre-examination search for this case in the following classes and subclasses: 707/9, 707/10, 726/26, 726/27, 726/28, 726/29,

726/30, 726/31, 726/32, and 726/33. The search was for patents or patent applications whose specification included the following search terms: ((DVD or "digital video disk") and (CSS or "content scramble system" or CCA or "copy control association") and (remot$ or evanescent$)). The results of the searches follow:

1 7,058,978 Security component for a computing device
2 7,003,528 Method and system for web management
3 7,000,107 System and method for using dynamic web components to remotely control the security state of web pages
4 6,910,040 System and method for XML based content management
5 6,560,639 System for web content management based on server-side application
6 5,978,916 Method, system and computer program product for updating region-dependent software using a common update module for multiple regions

1 20070162979 Connection linked rights protection
2 20070162978 Information processing device and method
3 20070156594 System and method for allowing creators, artsists, and owners to protect and profit from content
4 20060130149 Digital rights management microprocessing architecture
5 20060106807 System and method for transferring a file in advance of its use
6 20060064605 Digital content security system
7 20060021065 Method and device for authorizing content operations
8 20060021057 Method and system for preventing unauthorized reproduction of electronic media
9 20060005257 Encrypted contents recording medium and apparatus and method for reproducing encrypted contents
10 20050223013 Delivery of navigation data for playback of audio and video content
11 20040059933 Digital watermarking and fingerprinting applications for copy protection
12 20030154246 Server for storing files

In addition, general word based searches of similar scope were performed using Yahoo and Google. Applicant found no documents in those searches that appeared to be sufficiently relevant to the claimed invention to cite.

COPIES OF REFERENCES:

Copies of the references deemed most closely related to the subject matter encompassed by the claims accompany this Petition. These references are listed and discussed below.

DISCUSSION OF REFERENCES:

The following discussion of the references from the search in relation to these claims is not an admission that those references qualify as prior art.

The independent claims as amended are set forth below for the sake of convenience:

> 1. (Currently Amended) Apparatus, including
>
> a storage element including an input disposed for receiving digital content from a DVD, the storage element being capable of non-evanescently storing that digital content using a storage technique substantially different from the DVD, the digital content from the DVD complying with a CSS license to discourage unauthorized copying of the digital content;
>
> a playback device coupled to the storage element, the playback device having an input disposed for receiving the digital content and having an output disposed for coupling a media stream represented by that digital content for presentation, the digital content complying with the CSS license at the input of the playback device to discourage unauthorized copying of the digital content; and
>
> a media reader, the media reader having a read element capable of being coupled to the DVD.

42. (Currently Amended) A media reader, including

a read element for a DVD, the DVD including digital content representing at least one media stream, the digital content being maintained in a protected form in compliance with a CSS license to discourage unauthorized copying of the media stream, and the read element including a first authenticator;

a second authenticator;

an interface to a storage element; and

a controller capable of (1) causing the first authenticator and the second authenticator to authenticate each other before the read element accesses the DVD, and (2) causing the read element to read data from the DVD and output the data to the interface with DRM information intact.

45. (Currently Amended) A method of playing a DVD, including steps of

reading the DVD including digital content representing at least one media stream in compliance with a CSS license to discourage unauthorized copying of the media stream, the digital content being maintained in a protected form;

non-evanescently storing the digital content in the protected form using a storage mechanism different from the DVD; and

playing back the digital content after conversion into analog, digital, or analog and digital audiovisual content in a second protected from for presentation.

76. (Currently Amended) A method of doing business, including steps of sending data from a device that reads a DVD to a remote playback device while complying with CSS license agreement terms and CSS procedural specification terms to discourage unauthorized copying of the data.

These claims deal with an apparatus, a media reader, and methods that variously non-evanescently store, authenticate, play back or remotely play back digital content or data in compliance with CSS (Content Scramble System) license terms and/or specifications to discourage unauthorized copying.

US Patent No. 7,058,978 (Feuerstein) concerns a security component that determines whether a request for a resource poses a security risk to a computing device and verifies the integrity of the requested resource before the request is allowed. For example, Feuerstein teaches a security component that evaluates resource requests with an integrity verification component to verify the integrity of a requested resource before the resource request is processed by a network server application. Feuerstein does not deal with evanescently storing, authenticating, playing back or remotely playing back digital content or data in compliance with CSS license terms and/or specifications to discourage unauthorized copying. Rather, Feuerstein mentions a DVD generally, in the context of a DVD-ROM or other optical media as part of computer 702. In addition, css in Feuerstein refers to a .css file extension, not the Content Scramble System.

US Patent No. 5,978,916 (Randall) concerns updating pre-existing region-dependent software within multiple regions via a common software update without affecting the region-dependent nature of the software. Randall teaches an application that seeks to provide a single global update mechanism which can be used to update software modules which are region specific without affecting each DVD system's region specificity. Randall teaches that a preferred embodiment of the single global update is distributed via a public network, such as the internet, to users in the multiple DVD regions. Thus, Randall is specifically concerned with DVDs. Furthermore, CSS in Randall does refer to the Content Scramble System. However, Randall does not teach altering the way in which a DVD device complies with CSS license terms and/or specifications. In contrast, Randall appears to attempt to not affect compliance, namely by not affecting the region-dependent nature of the software. Randall therefore does not disclose or suggest

evanescently storing, authenticating, playing back or remotely playing back digital content or data in compliance with CSS license terms and/or specifications to discourage unauthorized copying.

Randall incorporates by reference US Patent Application No. 08/881,139, by Ciacelli et al., entitled "Apparatus, Method and Computer Program Product For Protecting Copyright Data Within a Computer System," now US Patent No. 6,236,727 (Ciacelli). Ciacelli teaches digitally processing an encrypted data stream scrambled, for example, according to content scrambling system (CSS) technology. This digital processing insures *against* communication of clear data within the computer system from a central processing unit (CPU) to any accessible structure, such as memory or a system bus. Ciacelli therefore does not disclose or suggest evanescently storing, authenticating, playing back or remotely playing back digital content or data in compliance with CSS license terms and/or specifications to discourage unauthorized copying.

The application for US Patent Pub. No. 2007/0162979 (Kamperman) was filed November 19, 2004, and therefore does appear to not qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 20070162978 (Watanabe) was filed January 27, 2005, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2007/0156594 (McGucken) was filed January 3, 2007, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2006/0130149 (Xiang) was filed July 21, 2005, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2006/0106807 (DeVitis) was filed November 18, 2005, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2006/0064605 (Giobbi) was filed November 7, 2005, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

US Patent Pub. No. 2006/0021065 (Kamperman) teaches methods of authorizing an operation requested by a first user on a content item. It is an object of Kamperman to provide authorization methods which allows rights management based on persons instead of devices. Kamperman briefly discusses the Content Scramble System as follows:

> [0002] In recent years, the amount of content protection systems is growing in a rapid pace. Some of these systems only protect the content against illegal copying, while others are also prohibiting the user to get access to the content. The first category is called Copy Protection (CP) systems. CP systems have traditionally been the main focus for consumer electronics (CE) devices, as this type of content protection is thought to be cheaply implemented and does not need bi-directional interaction with the content provider. Some examples are the Content Scrambling System (CSS), the protection system of DVD ROM discs and DTCP, the protection system for IEEE 1394 connections.

However, Kamperman does not provide any teachings how digital content or data can be non-evanescently stored, authenticated, played back or remotely played back in compliance with CSS

license terms and/or specifications to discourage unauthorized copying. In fact, Kamperman does not mention CSS beyond the portion quoted above.

The application for US Patent Pub. No. 2006/0021057 (Risan) was filed July 8, 2004, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2006/0005257 (Tohru) was filed July 1, 2004, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

The application for US Patent Pub. No. 2005/0223013 (Jarman) was filed May 3, 2005, and therefore does not appear to qualify as prior art for the application in this case, which was filed Mar. 15, 2004.

US Patent Pub. No. 2004/0059933 (Levy) teaches an improved copy protection systems including copy once, personal computer (PC) buffer copy protection, and identifying different copy control systems are provided. According to Levy, a "copy once" protection system uses memory in a recording device to remember content or physical media IDs so that the same original content or media is not copied twice. Levy mentions CSS in the following paragraph:

> [0031] Alternatively, a physical media (e.g., a DVD) serial number can be used as a content identifier. This physical media serial number is unique for each media copy (e.g., each DVD disc) and may be related to the Content Scrambling System (CSS) used today or any encryption/scrambling system used in the future. Using the serial number as a content ID creates a copy once atmosphere for that specific DVD, thus requiring the person to acquire another DVD with the same content to continue copying.

Permitting "copy once" is different from discouraging unauthorized copying in compliance with CSS license terms and/or specifications. Accordingly, Levy does not disclose or suggest evanescently storing, authenticating, playing back or remotely playing back digital content or data in compliance with CSS license terms and/or specifications to discourage unauthorized copying.

US Patent Pub. No. 2003/0154246 (Ollikainen) teaches a file server that is composed of several hard disks, each of which contains at least one ring buffer as well as a storage area. In particular, Ollikainen relates to a video server storing files on disks from which they can be transferred isochronously as real-time multimedia data to the user's terminal through a communications network. Transfer of digital media, data, or a media stream from a DVD is not covered by Ollikainen. Therefore, Ollikainen does not disclose or suggest evanescently storing, authenticating, playing back or remotely playing back digital content or data in compliance with CSS license terms and/or specifications to discourage unauthorized copying.

US Patent No. 7,003,528 (Dan I), US Patent No. 7,000,107 (Hewett), US Patent No. 6,910,040 (Emmick), and US Patent No. 6,560,639 (Dan II) turned up in the search based on the search term "css" or "CSS." However, this term in these patents refers to cascading style sheets or a cascading style sheet style, not the Content Scramble System. These patents therefore are not believed to be directly pertinent to the patentability of the invention as claimed.

ADDITIONAL EVIDENCE OF PATENTABILITY:

Applicant notes that the CCA itself did not believe that the invention described in the application in this case was possible, namely that the disclosed operations and devices could perform in compliance with CSS license terms and/or specifications to discourage unauthorized copying. This issue was the subject of *DVD Copy Control Association, Inc. vs. Kaleidescape, Inc.*, in the Superior Court of the State of California in Santa Clara County, case no. 1-04-CV031829. As shown in the accompanying copy of a transcript of the judge's oral decision in that case, the assignee of the application prevailed in that litigation. Applicant asserts that this is strong evidence of an unexpected result and therefore of patentability of the claimed invention.

Closing

This Petition is believed to comply fully with the requirements set forth in MPEP § 708.02(VII). Accordingly, approval of this Petition and accelerated examination of the application in this case are respectfully requested.

The entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience. Applicant's undersigned attorney can be reached at (614) 205-3241. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,

Dated: August 23, 2007

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